

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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DENNIS CLAYPOOL, et al.,)

)

Plaintiffs,)

)

vs.) No. CV 04-00570 ACK/KSC

)

CAPTAIN ANDY'S SAILING, INC.,)

et al.,)

)

Defendants.)

)

AND RELATED ACTIONS.)

)

DEPOSITION OF DENNIS CLAYPOOL

Friday, April 22, 2005

CERTIFIED COPY

REPORTED BY: DENISE A. FORD, CSR 7525 (364660)

EXHIBIT 11



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1 Q. Looking back on it, when was the first
2 time you recall realizing you had pain from your arm?

3 A. In the hospital after the first surgery,
4 which I guess was the same day of the event.

5 Q. At Wilcox Memorial?

6 A. Yes.

7 Q. There is something in your file about a
8 tourniquet being applied on the PRIDE OF ALOHA?

9 A. Yes.

10 Q. What do you recall about that?

11 A. On the boat that took us over to the
12 cruise ship, which is the PRIDE OF ALOHA, they put a
13 rope tourniquet around my arm.

14 Q. When you say "they," you are talking on
15 the SPIRIT?

16 A. On the SPIRIT OF KAUAI.

17 Q. They put a rope tourniquet on your arm?

18 A. Yes.

19 Q. And the PRIDE OF ALOHA?

20 A. They attempted to apply another tourniquet
21 above. They didn't want to touch the rope tourniquet.
22 They tried to put on an air tourniquet. They filled it
23 with air, a little balloon deal. It was strapped off.
24 They filled it with air and applied pressure to that
25 arm. That hurt so much that I said take that -- I used

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1 of the care you received at Wilcox Memorial Hospital was
2 in any way deficient or wrong?

3 A. No.

4 Q. Has any physician ever told you that any
5 of the care you received by the medical personnel on the
6 PRIDE OF ALOHA was deficient or wrong?

7 A. No.

8 Q. Has any physician ever told you any of the
9 care you received by the crew and other individuals on
10 the SPIRIT OF KAUAI was deficient or wrong?

11 A. No.

12 Q. At any time prior to arriving at Wilcox
13 Memorial Hospital did you lose consciousness?

14 A. No.

15 Q. Did you require a blood transfusion at
16 Wilcox Memorial Hospital?

17 A. Not that I recall, no.

18 Q. Did you walk from the SPIRIT OF KAUAI to
19 the PRIDE OF ALOHA?

20 A. Yes.

21 Q. And once you got on the PRIDE OF ALOHA,
22 did they put you in a wheelchair?

23 A. No, walked right up to -- my biggest fear
24 was falling back into the ocean. That was the last
25 place I wanted to be. There was a huge swell between --

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1 the ship was pretty much stable, but our little SPIRIT
2 OF KAUAI was moving up and down quite a distance, five,
3 six feet. It seemed like maybe more. I don't know, but
4 I am a pretty heavy guy. I couldn't imagine them
5 carrying me over there without me falling somewhere.

6 I knew I could stand, and I just said help me up
7 and I will walk on to that. My biggest fear at that
8 point was falling back into the ocean because I thought
9 I was going to drown the last time I was in the ocean.

10 I timed it myself and figured when it came up
11 and just as it was coming down, I stepped onto the PRIDE
12 OF ALOHA and walked up with the nurse following me.

13 She said get up on this, whatever it is called,
14 the bed or whatever it is -- not a bed. It's on a
15 gurney I guess.

16 Q. Let's take a break.

17 (Break taken.)

18 Q. Mr. Claypool, when was the first time you
19 saw your family after the incident?

20 MR. LESSER: Object to the form.

21 THE WITNESS: My son that was in the
22 water with me came on the boat that hit us, came around
23 and picked us up. I saw him the last time when I got on
24 the cruise ship. He went back on that boat.

25 So it wasn't until -- when I got to the hospital

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1 easier to stay afloat, and that's when I pulled my arm
2 out of the water and hanging straight out. The two
3 blood vessels were squirting blood out, like a squirt
4 gun. I was screaming louder then. I put my hand in that
5 and tried to pulled my arm to me, which made it
6 difficult to stay afloat. I kept popping down and
7 trying not to let go of the arm because I was afraid I
8 was going to lose it.

9 One of the other divers, which was the certified
10 one, came up to me and eventually tried to hold me up
11 which helped a lot. I was still kicking with one leg.
12 He was trying to hold me up as much as he could help me.

13 I kept yelling and I saw the boat finally that
14 hit us turn around and start coming back towards us. It
15 gradually made a turn. It was going away pretty fast.
16 It eventually turned and came back towards us.

17 Q. Do you recall which way the vessel turned
18 as it was moving away from you?

19 Did it turn to the right or left?

20 A. To the left.

21 Q. And do you have any knowledge where Scott
22 was at the time when you were assisted by the certified
23 diver? You said he came up to assist you.

24 Do you have any recollection or knowledge where
25 Scott was at that time?

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1 A. Well, at some point, and I can't tell you
2 exactly when, he was on the surface looking at me. It
3 was sometime at the point just before the kayak -- there
4 was a guy in a kayak came up to hold myself up that
5 Scott was with him, 4 or 5 feet of us. He was real
6 close.

7 Q. And what about Jessica, the other
8 uncertified diver, do you recall what happened to her?

9 A. She was on the surface at that point, but
10 I don't -- I wasn't focused on her at all. I know she
11 was on the surface.

12 Q. At any time after coming to the surface
13 after your injury did you form an opinion as to how far
14 away you were from the Blue Dolphin vessel?

15 A. Well, my big problem with distance is I
16 wear glasses. I was not wearing any glasses. I don't
17 have contacts, so I wasn't wearing those either. Things
18 are blurry for me because -- I guess it is nearsighted.
19 I can't see far away.

20 Q. What is your uncorrected vision?

21 A. Truthfully I don't remember. I think it
22 is -- I really don't. I would have to check my
23 prescription.

24 Q. Do you have an optometrist or
25 ophthalmologist that you go to?

1
2
3 **CERTIFICATE OF REPORTER**

4 I, DENISE A. FORD, a Certified Shorthand
5 Reporter, hereby certify that the witness in the
6 foregoing deposition was by me duly sworn to tell the
7 truth, the whole truth, and nothing but the truth in the
8 within-entitled cause;

9 That said deposition was taken down in
10 shorthand by me, a disinterested person, at the time and
11 place therein stated, and that the testimony of the said
12 witness was thereafter reduced to typewriting, by
13 computer, under my direction and supervision;

14 I further certify that I am not of counsel or
15 attorney for either or any of the parties to the said
16 deposition, nor in any way interested in the event of
17 this cause, and that I am not related to any of the
18 parties thereto.

19 DATED: May 4, 2005.

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23 DENISE A. FORD, CSR No. 7525
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